

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

THUYHONG NGUYEN, and individual,

Plaintiff,

v.

CENTURYLINK, INC., a Louisiana  
corporation, and QWEST CORPORATION, a  
Colorado corporation,

Defendants.

NO. 2:17-cv-01341

JOINT STIPULATED MOTION  
FOR RELIEF FROM DISCOVERY  
DEADLINE TO COMPLETE A  
DEPOSITION

NOTE ON MOTION CALENDAR:  
July 3, 2018

The parties to this action, by and through their respective counsel of record, respectfully request that the Court grant their Joint Stipulated Motion to Extend the Discovery Deadline, for the limited purpose of completing the deposition of lay witness Mr. Dennis Luttrell.

Plaintiff Ms. Nguyen seeks to depose Mr. Dennis Luttrell, a former employee of CenturyLink, Inc. and Qwest Corporation (“Defendants”). Mr. Luttrell is a critical witness in this employment case, as during the relevant time, he was the direct supervisor of Plaintiff. As Defendants no longer employ Mr. Luttrell, Plaintiff could not simply note Mr. Luttrell for deposition by serving Defendants. Mr. Luttrell resides in Nevada, and Plaintiff’s counsel was

1 unable to locate him or obtain a returned call from him regarding his deposition date and time,  
2 despite many attempts, until June 29, 2018. Plaintiff's counsel intended to depose Mr. Luttrell  
3 on July 6, 2018, a date agreed to by Defendant. However, Mr. Luttrell has stated that he is in  
4 the mountains in an unidentified location until the evening of July 6, 2018. He has stated that  
5 he is available for a deposition on July 13, 2018. Defense counsel is available to appear for  
6 Mr. Luttrell's deposition on July 13, 2018. However, since Mr. Luttrell cannot be located for  
7 service of a subpoena until after July 6, 2018, given the remote location he states he is in until  
8 that date, a location he has not disclosed despite request, Plaintiff requests that she have until  
9 July 20, 2018 to complete the deposition of Mr. Luttrell, should any issues with service which  
10 would preclude completion of the deposition as planned on July 13, 2018.

11 The Court has set the deadline for completing discovery as July 8, 2018. *Minute Order*  
12 *Setting Trial Date and Related Dates, Dkt. # 16*. This is the first request by the parties for an  
13 extension to the deadlines set by the Court, and is made for a limited purpose. The parties do  
14 not anticipate that the stipulated motion for extension of the time to depose Mr. Luttrell would  
15 interfere with their ability to comply with other deadlines set by the Court, and accordingly,  
16 are not requesting other modification of the scheduling order.<sup>1</sup>

17 A scheduling order may be modified for good cause and with the Court's consent. Fed.  
18 R. Civ. P. 16(b)(4). The Rule 16 "good cause" requirement primarily considers the diligence  
19 of the party seeking the amendment. *Johnson v. Mammoth Recreations, Inc.*, 975 F. 2d 604,

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21 <sup>1</sup> A motion is pending before the Court presently for a protective order against Plaintiff's Rule 30(b)(6)  
22 depositions of Defendants, which were noted to occur before the discovery cutoff. *Defendants' Motion for*  
23 *Protective Order, Dkt. # 31*. Should the Court deny Defendants' motion, Plaintiff will request that she be  
permitted to complete those discovery depositions on a date which may be after the discovery deadline, as the  
anticipated earliest date the parties expect a ruling from the Court will fall after the deadline for completing  
discovery. However, that is an issue which will be addressed in separate pleadings relating Defendants' Motion  
of Protective Order as the parties have not reached an agreement relating to the 30(b)(6) depositions.

1 609 (9th Cir. 1992). “The district court may modify the pretrial schedule if it cannot reasonably  
2 be met despite the diligence of the party seeking the extension.” *Id.* (internal citation and quote  
3 marks omitted). “Mere failure to complete discovery within the time allowed does not  
4 constitute good cause for an extension or continuance.” LR 16(b)(4).

5 “Good cause” exists in this case for modification of the scheduling order. Plaintiff has  
6 diligently sought to obtain the address and availability for deposition of witness Mr. Luttrell,  
7 who is located in Nevada. Mr. Luttrell has not been at his residential address, and despite many  
8 attempts to reach him, had not responded until Plaintiff’s counsel reached him by telephone on  
9 June 29, 2018. Defendants could not have assisted in procuring Mr. Luttrell’s deposition earlier  
10 as he is no longer their employee and they likewise have no control over Mr. Luttrell’s location  
11 or schedule. Because of the unusual circumstance relating to a non-party’s travel schedule, the  
12 parties agreed to jointly request modification of the scheduling order to allow for completion  
13 of this deposition.

14 Accordingly, the parties respectfully request that the Court grant their joint stipulated  
15 motion to continue the discovery deadline to July 20, 2018, for the purpose of completing the  
16 deposition of Mr. Luttrell.

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IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED July 3, 2018.

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IT IS SO ORDERED.

DATED: 9<sup>th</sup> day of July, 2018



Robert S. Lasnik  
United States District Judge